IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 5 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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COMMISSIONER OF INCOME-TAX

Versus

NAVNITBHAI CHUNIBHAI PATEL

Appearance:

MR AKIL QURESHI forMR MANISH R BHATT for Petitioner
MR RK PATEL for Respondent

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 28/06/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

At the instance of the revenue, the following question of law has been referred to this Court for its opinion under the provisions of sec. 256(1) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') :

"Whether, on the facts and in the circumstances of the case, the Tribunal has not erred in deleting the income of Rs. 1,79,630/- of Smt. Surajben C. Patel Trust included by the I.T.O. in the income of the assessee?"

2. Learned advocate Shri Akil Qureshi has appeared for the applicant-revenue whereas learned advocate Shri R.K. Patel has appeared for the respondent-assessee.

3. The question which has been referred to this Court pertains to Assessment Year 1981-82. For the same assessee for the Assessment Year 1980-81 a similar question had been referred to this Court for its opinion. In ITR No.100/86 this Court has answered the said question in the affirmative i.e. in favour of the assessee and against the revenue. It has been submitted by the learned advocates that the facts of the present case and the case which was covered in ITR No. 100/86 involve similar legal issue.

4. In the circumstances, looking to the judgment delivered in ITR NO. 100/86, we answer the question referred to us in the affirmative i.e. in favour of the assessee and against the revenue.

The reference stands disposed of accordingly with no order as to costs.

(A.R. Dave, J.)

(D.A. Mehta, J.)

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